

## **2005 DRAFTING REQUEST**

### **Senate Substitute Amendment (SSA-SB312)**

Received: **10/21/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Herself**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - medical assistance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

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#### **Pre Topic:**

No specific pre topic given

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#### **Topic:**

Enhanced CIP II relocations and diversions

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#### **Instructions:**

See Attached

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#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 10/21/2005	kfollett 10/21/2005		_____			
/1			pgreensl 10/21/2005	_____	sbasford 10/21/2005	sbasford 10/21/2005	
/2	dkennedy 10/31/2005	kfollett 11/01/2005	rschluet 11/01/2005	_____	sbasford 11/01/2005	sbasford 11/01/2005	

FE Sent For:

**<END>**

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/?	dkennedy 10/21/2005	kfollett 10/21/2005		_____			
/1		12 lgf 10/11	pgreensl 10/21/2005	_____	sbasford 10/21/2005	sbasford 10/21/2005	

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#### Topic:

Enhanced CIP II relocations and diversions

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#### Instructions:

See Attached

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/?	dkennedy	11/15/05 10/21/05	10/21/05 pg	10/21/05 pg			

FE Sent For:

<END>

10/05/05 Mtg. re SB 312 330 SW

Sen. Ruessler, Jennifer Halbur, Charlie Morgan, Laura Rose,  
Helene Nelson, Judith Frye

Division v. relocation

Judy : Once person has been out of nh for 180 days,  
DHFS will make avail. to persons  
who wd. be eligible for n.h. entry

Definition of "imminent ~~risk~~" entry - DHFS is  
working on

Imminent entry - how to implement  
Case manager is to decide  
loss of informal support  
loss of financial wherewithall

Are looking for persons to ~~sign~~ provide  
reasons for waitlist

Possible amends to SB 312 -  
Add\$ (100 slots?)

Have JFC approval for more slots once find  
out how many are participating

CM: ① Divisions are to be under criteria

estab. by DHFS

exempt from rules

loss of informal  
support  
loss of financial

review of fin circum of unmed family  
health + safety

(2) up to ~~100~~<sup>150</sup> slots or more, w/ JFC approval,

(3) No rulemaking

~~Report back~~

~~Expansion of Family Care~~

including

{ min loss of current living arrangements  
or  
min risk of long-term n. h. stay  
~~at~~

## 2005 SENATE BILL 312

August 31, 2005 - Introduced by Senators ROESSLER, DARLING, ROBSON, BROWN, DECKER, MILLER, GROTHMAN, HARS DORF, TAYLOR, BRESKE, HANSEN, RISSER, WIRCH and LEIBHAM, cosponsored by Representatives HUNDERTMARK, AINSWORTH, BENEDICT, DAVIS, LEMAHIEU, HINES, BERCEAU, GRIGSBY, MCCORMICK, MUSSER, NASS, VAN ROY, MOLEPSKE, KRUSICK, LEHMAN, POPE-ROBERTS, SEIDEL, SHERIDAN, SHILLING and STASKUNAS. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

and providing an exemption from rule-making procedures

- 1 AN ACT <sup>Regen</sup> to amend 46.277 (5) (g) of the statutes; relating to: expanding
- 2 relocations from nursing homes under a community integration program to
- 3 include persons who are diverted from imminent entry into nursing homes.

### Analysis by the Legislative Reference Bureau

Under current law, as affected by 2005 Wisconsin Act 25 (the biennial budget act), the Department of Health and Family Services (DHFS) is authorized to pay an enhanced rate for Medical Assistance program services that are provided to individuals who, under a waiver of federal Medicaid laws, are relocated from nursing homes under a community integration program (commonly known as "CIP II"). The number of individuals served may not exceed the number of nursing home beds that are delicensed as part of plans submitted by nursing homes and approved by DHFS.

This bill expands CIP II, under which individuals in nursing homes are relocated to the community, to include individuals who are diverted from imminent entry into nursing homes.

For further information see the ~~state and local~~ fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

SECTION 1. 46.277 (5) (g) of the statutes, as affected by 2005 Wisconsin Act 25, is amended <sup>renumbered</sup> to read: 46.277 (5) (g) 1. and amended

INSERT  
ANAL

Change  
Component  
4  
5

## SENATE BILL 312

## SECTION 1

1           46.277 (5) (g) The department may provide enhanced reimbursement for  
2 services provided under this section to an individual who is diverted from imminent  
3 entry into a nursing home or who is relocated to the community from a nursing home  
4 by a county department on or after the effective date of this paragraph .... [revisor  
5 inserts date], if the ~~number of individuals served~~ <sup>up to 150</sup> ~~under this paragraph~~ <sup>may be</sup> does not  
6 exceed the number of nursing home beds that are delicensed as part of plans  
7 submitted by nursing homes and approved by the department. The department shall  
8 develop and utilize a formula to determine the enhanced reimbursement rate.

9           **SECTION 2. Nonstatutory provisions.**

10           (1) REPORT ON IMPLEMENTATION OF NURSING HOME DIVERSIONS. By January 1,  
11 2007, the department of health and family services shall submit a report to the chief  
12 clerk of each house of the legislature, for distribution to the appropriate standing  
13 committees in the manner provided under section 13.172 (3) of the statutes,  
14 regarding implementation of diversions from nursing homes under section 46.277 (5)  
15 (g) of the statutes, as affected by this act.

16           (END)

INSERT 2-8

D - NOTE



INSERT ANAL

Under current law, the Department of Health and Family Services (DHFS) provides home or community-based care, under a waiver of federal Medicaid laws, to Medical Assistance (MA) recipients who are relocated from nursing homes or who meet MA level of care requirements for nursing home care. The community integration program under which this care is provided is commonly known as "CIP II." Also under current law, as affected by 2005 Wisconsin Act 25 (the biennial budget act), DHFS is authorized to pay an enhanced rate for MA services under CIP II for persons who are relocated from a nursing home by a county department after July 27, 2005, if the number of persons served does not exceed the number of nursing home beds that are delicensed as part of plans submitted by nursing homes and approved by DHFS.

X This substitute amendment expands eligibility for the enhanced reimbursement rate for services under CIP II to up to 150 persons who meet MA level of care requirements for nursing home care and are diverted from imminent entry into nursing homes. DHFS must develop and utilize criteria for determining imminent entry into a nursing home. These criteria and a formula developed by DHFS to determine the enhanced reimbursement rate are, under the substitute amendment, exempted from rule-making requirements. If it is likely that the number of persons for which the enhanced MA reimbursement rate for services is provided will exceed 150, DHFS may submit a request to the joint committee on finance of the legislature, under a passive review process, for approval to expand the number of persons served.

By January 1, 2007, DHFS must submit to the appropriate standing committees of the legislature a report regarding the implementation of diversions from nursing homes under the enhanced MA reimbursement rate for CIP II.

no score  
↓  
INSERT 2-8

1 46.277 (5) (g) 1. The department may provide enhanced reimbursement for  
2 services provided under this section to an individual who, on or after July 27, 2005,  
3 is relocated to the community from a nursing home by a county department ~~on or~~  
4 ~~after July 27, 2005, if the~~ or to an individual who meets the level of care requirements  
5 for Medical Assistance reimbursement in a skilled nursing facility or an  
6 intermediate care facility and is diverted from imminent entry into a nursing home.  
7 Except as provided in subd. 3, the number of individuals served under this paragraph  
8 does may not exceed 150 and may not exceed the number of nursing home beds that

1 are delicensed as part of plans submitted by nursing homes and approved by the  
2 department. 2. The department shall develop and utilize a formula to determine the  
3 enhanced reimbursement rate for services provided under subd. 1. The department  
4 shall also develop and utilize criteria for determining imminent entry into a nursing  
5 home under subd. 1. that shall include an imminent loss of current living  
6 arrangements and an imminent risk of a long-term nursing home stay. The  
7 department need not promulgate as rules under ch. 227 the criteria and formula  
8 required to be developed and utilized under this subdivision.

History: 1983 a. 27; 1985 a. 29 ss. 896nc to 896u, 3202 (23); 1985 a. 176; 1987 a. 27, 186, 399; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1997 a. 13, 27, 114; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25.

9 **SECTION 1.** 46.277 (5) (g) 3. of the statutes is created to read:

10 46.277 (5) (g) 3. If it is likely that the number of individuals for whom an  
11 enhanced reimbursement for services is provided under subd. 1. will exceed 150, the  
12 department may submit a request to the joint committee on finance for approval to  
13 provide enhanced reimbursement for services provided under subd. 1. for a number  
14 of individuals in excess of 150. Notwithstanding s. 13.101 (3) (a), the committee is  
15 not required to find that an emergency exists. If the cochairpersons of the committee  
16 do not notify the secretary within 14 working days after the date of the department's  
17 submittal that the committee intends to schedule a meeting to review the request,  
18 approval of the request is granted. If, within 14 working days after the date of the  
19 department's request submittal, the cochairpersons of the committee notify the  
20 secretary that the committee intends to schedule a meeting to review the request, the  
21 request may be granted only as approved by the committee.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0269/?dn

DAK:lgf

Date

To Senator Roessler:

1. Should the ceiling of 150 individuals apply to all individuals for whom the enhanced rate is provided (i.e., both relocations and diversions), as I have drafted, or did you intend that the ceiling apply only to diversions?
2. Did you intend that the exemption from rule-making apply to both the formula for the reimbursement rate and the criteria for determining imminent entry, as I have drafted, or did you intend that the exemption apply only to the criteria?
3. As drafted, the enhanced reimbursement rate applies only to relocations as far back as July 27 (the date of enactment of 2005 Act 25, which amended s. 46.277 (5) (g), stats.)); the enhanced reimbursement rate for diversions would become effective on the effective date of this bill. Is that okay, or do you want the enhanced reimbursement to apply retroactively to diversions by the earlier date, as well?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0269/1dn  
DAK:kjf:pg

October 21, 2005

To Senator Roessler:

1. Should the ceiling of 150 individuals apply to all individuals for whom the enhanced rate is provided (i.e., both relocations and diversions), as I have drafted, or did you intend that the ceiling apply only to diversions?
2. Did you intend that the exemption from rule-making apply to both the formula for the reimbursement rate and the criteria for determining imminent entry, as I have drafted, or did you intend that the exemption apply only to the criteria?
3. As drafted, the enhanced reimbursement rate applies only to relocations as far back as July 27 (the date of enactment of 2005 Act 25, which amended s. 46.277 (5) (g), stats.)); the enhanced reimbursement rate for diversions would become effective on the effective date of this bill. Is that okay, or do you want the enhanced reimbursement to apply retroactively to diversions by the earlier date, as well?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

## Kennedy, Debora

---

**From:** Stegall, Jennifer  
**Sent:** Friday, October 28, 2005 10:27 AM  
**To:** Kennedy, Debora  
**Cc:** Rose, Laura  
**Subject:** SSA to SB 312...nursing home diversion  
**Attachments:** Stegall, Jennifer.vcf

Hi Debora,

Senator Roessler and I discussed the questions you raised regarding the sub. amendment to SB 312.

- ✓ 1. The ceiling of 150 individuals should apply only to diversions.
- ✓ 2. The rule-making exemption should apply to the criteria for determining imminent entry. The exemption should NOT apply to the formula for the reimbursement rate.
- ✓ 3. The way you have this drafted is great...having the reimbursement rate for diversions becoming effective on the effective date of the bill.

There are 2 other issues that need to be addressed:

- ✓ 1. Senator Roessler determined at the meeting that she no longer felt that a reporting requirement was necessary. She feels there will be an opportunity to review the Department's implementation of the diversion during the budget process. Therefore, you can delete the language relating to reporting requirements...Page 3, delete lines 18-24.
- 2. I have in my notes that there was agreement to add broad language indicating what type of situation may make a person eligible for a diversion. The statement I have is, "loss of a current living arrangement or other condition presenting imminent risk of entry into a nursing home." **Does this sound familiar to either of you?**

**Thank you for your work on this bill.**

**Jennifer Stegall**  
**Office of Senator Carol Roessler**  
**608-266-5300/1-888-736-8720**  
**Jennifer.Stegall@legis.state.wi.us**

*From Jennifer 10/31:  
use language as  
drafted in  
46.277(5)(g)2.*



Stegall,  
Jennifer.vcf (4 KB)



WEDNESDAY 11/2  
State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0269/12  
DAK:kjf:pg

SENATE SUBSTITUTE AMENDMENT ,  
TO 2005 SENATE BILL 312

Regen

1 AN ACT *to renumber and amend* 46.277 (5) (g); and *to create* 46.277 (5) (g) 3.  
2 of the statutes; **relating to:** expanding relocations from nursing homes under  
3 a community integration program to include Medical Assistance-eligible  
4 persons who are diverted from imminent entry into nursing homes and  
5 providing an exemption from rule-making procedures.

---

*Analysis by the Legislative Reference Bureau*

Under current law, the Department of Health and Family Services (DHFS) provides home or community-based care, under a waiver of federal Medicaid laws, to Medical Assistance (MA) recipients who are relocated from nursing homes or who meet MA level of care requirements for nursing home care. The community integration program under which this care is provided is commonly known as "CIP II." Also under current law, as affected by 2005 Wisconsin Act 25 (the biennial budget act), DHFS is authorized to pay an enhanced rate for MA services under CIP II for persons who are relocated from a nursing home by a county department after July 27, 2005, if the number of persons served does not exceed the number of nursing home beds that are delicensed as part of plans submitted by nursing homes and approved by DHFS.

This substitute amendment expands eligibility for the enhanced reimbursement rate for services under CIP II to up to 150 persons who meet MA level

*for diversions from imminent entry into nursing homes*

of care requirements for nursing home care and are diverted from imminent entry into nursing homes. DHFS must develop and utilize criteria for determining imminent entry into a nursing home. These criteria ~~and a formula developed by DHFS to determine the enhanced reimbursement rate~~ are, under the substitute amendment, exempted from rule-making requirements. If it is likely that the number of persons for which the enhanced MA reimbursement rate for services is provided will exceed 150, DHFS may submit a request to the Joint Committee on Finance of the legislature, under a passive review process, for approval to expand the number of persons served. *that category of*

By January 1, 2007, DHFS must submit to the appropriate standing committees of the legislature a report regarding the implementation of diversions from nursing homes under the enhanced MA reimbursement rate for CIP II.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

SECTION 1. 46.277 (5) (g) of the statutes, as affected by 2005 Wisconsin Act 25, is renumbered 46.277 (5) (g) 1. and amended to read:

46.277 (5) (g) 1. The department may provide enhanced reimbursement for services provided under this section to an individual who, on or after July 27, 2005, is relocated to the community from a nursing home by a county department ~~on or after July 27, 2005, if the~~ or to an individual who meets the level of care requirements for Medical Assistance reimbursement in a skilled nursing facility or an intermediate care facility and is diverted from imminent entry into a nursing home.

Except as provided in subd. 3., the number of individuals served under this paragraph does may not exceed 150 and may not exceed the number of nursing home

beds that are delicensed as part of plans submitted by nursing homes and approved by the department. *and the number of individuals diverted from imminent entry into a nursing home*

2. The department shall develop and utilize a formula to determine the enhanced reimbursement rate for services provided under subd. 1. The department shall also develop and utilize criteria for determining imminent entry into a nursing

*may not exceed 150*



1 home under subd. 1. that shall include an imminent loss of current living  
2 arrangements and an imminent risk of a long-term nursing home stay. The  
3 department need not promulgate as rules under ch. 227 the criteria and formula  
4 required to be developed and utilized under this subdivision.

5 **SECTION 2.** 46.277 (5) (g) 3. of the statutes is created to read:

6 46.277 (5) (g) 3. If it is likely that the number of individuals for whom an  
7 enhanced reimbursement for services is provided under subd. 1. will exceed 150, the  
8 department may submit a request to the joint committee on finance for approval to  
9 provide enhanced reimbursement for services provided under subd. 1. for a number  
10 of individuals in excess of 150. Notwithstanding s. 13.101 (3) (a), the committee is  
11 not required to find that an emergency exists. If the cochairpersons of the committee  
12 do not notify the secretary within 14 working days after the date of the department's  
13 submittal that the committee intends to schedule a meeting to review the request,  
14 approval of the request is granted. If, within 14 working days after the date of the  
15 department's request submittal, the cochairpersons of the committee notify the  
16 secretary that the committee intends to schedule a meeting to review the request, the  
17 request may be granted only as approved by the committee.

18 **SECTION 3. Nonstatutory provisions.**

19 (1) REPORT ON IMPLEMENTATION OF NURSING HOME DIVERSIONS. By January 1,  
20 2007, the department of health and family services shall submit a report to the chief  
21 clerk of each house of the legislature, for distribution to the appropriate standing  
22 committees in the manner provided under section 13.172 (3) of the statutes,  
23 regarding implementation of diversions from nursing homes under section 46.277 (5)  
24 (g) of the statutes, as affected by this act.

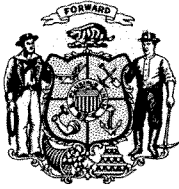
LRB s 0269/2  
DAKCCC  
to  
SSA 1  
to  
SB 312

⑨ #. Page 2, line 12: delete "immanent"  
and substitute "imminent".

⑨ #. Page 3, line 7: delete "immanent"  
and substitute "imminent".  
(end)

on lines 7 and 10,

CJS



State of Wisconsin  
2005-2006 LEGISLATURE

**CORRECTIONS IN:**

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE BILL 312**

Prepared by the Legislative Reference Bureau  
(November 15, 2005)

1. Page 2, line 12: delete "immanent" and substitute "imminent".
2. Page 3, line 7: on lines 7 and 10, delete "immanent" and substitute "imminent".

(END)



State of Wisconsin  
2005-2006 LEGISLATURE

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Prepared by the Legislative Reference Bureau  
(November 15, 2005)

1. Page 2, line 12: delete "immanent" and substitute "imminent".
2. Page 3, line 7: on lines 7 and 10, delete "immanent" and substitute "imminent".

(END)

1 arrangements and an imminent risk of a long-term nursing home stay. The  
2 department need not promulgate as rules under ch. 227 the criteria required to be  
3 developed and utilized under this subdivision.

4 **SECTION 2.** 46.277 (5) (g) 3. of the statutes is created to read:

5 46.277 (5) (g) 3. If it is likely that the number of individuals for whom an  
6 enhanced reimbursement for services is provided under subd. 1. and who are  
7 diverted from immanent entry into nursing homes will exceed 150, the department  
8 may submit a request to the joint committee on finance for approval to provide  
9 enhanced reimbursement for services provided under subd. 1. for diversion from  
10 immanent entry into nursing homes for a number of individuals in excess of 150.  
11 Notwithstanding s. 13.101 (3) (a), the committee is not required to find that an  
12 emergency exists. If the cochairpersons of the committee do not notify the secretary  
13 within 14 working days after the date of the department's submittal that the  
14 committee intends to schedule a meeting to review the request, approval of the  
15 request is granted. If, within 14 working days after the date of the department's  
16 request submittal, the cochairpersons of the committee notify the secretary that the  
17 committee intends to schedule a meeting to review the request, the request may be  
18 granted only as approved by the committee.

19 (END)



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

March 8, 2006

## MEMORANDUM

**To:** All recipients of Chief Clerk Correction copies

**From:** Caroline Haugen, Legislative Processing Specialist Supervisor

**Subject:** Chief Clerk's Correction for Senate Substitute Amendment 1 to 2005 Senate Bill 312.

---

You previously received copies of a Chief Clerk's Correction for Senate Bill 312 dated November 15, 2005. The words "immanent" and "imminent" should not have been scored in item 2. Please toss all previously received copies of this Chief Clerk's Correction and replace them with the corrected version attached.

### INCORRECT VERSION

**2.** Page 3, line 7: on lines 7 and 10, delete "immanent" and substitute "immi-  
nent".

### CORRECT VERSION

**2.** Page 3, line 7: on lines 7 and 10, delete "immanent" and substitute "immi-  
nent".

Thank you.



State of Wisconsin  
2005-2006 LEGISLATURE

**CORRECTIONS IN:**

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE BILL 312**

Prepared by the Legislative Reference Bureau  
(March 8, 2006)

1. Page 2, line 12: delete "immanent" and substitute "imminent".
2. Page 3, line 7: on lines 7 and 10, delete "immanent" and substitute "imminent".

(END)